

**IN THE DISTRICT COURT OF BAUCHI STATE
IN THE BAUCHI JUDICIAL DIVISION
HOLDEN AT SMALL CLAIMS COURT NO 2 BAUCHI
BEFORE HIS WORSHIP ZAINAB M SHUAIBU (MRS)
SUIT NO SCCBH/225/2026**

BETWEEN

JUWAIIRIYA SANI CLAIMANT

AND

AMINA UMAR DEFENDANT

Parties absent

Appearances S A BILYAMINU ESQ for the claimant

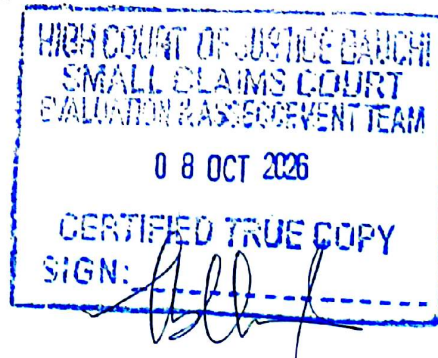
JUDGEMENT

The claimant commenced this suit under the Bauchi state practice direction on small claims court no 2 of 2022, he fill and filled form SCA 2 and 3, the claimant claim before the court against the defendant is the sum of one hundred and fifty thousand naira only.

The defendant was served with the process of this court through substituted means dated 2rd September 2026 as deposed to by the bailiff of this honourable court ALIYU SALE TAFIDA.

On the 8th day of September 2026 hearing commenced CW1 by name Juwariya Sani affirm and testified to the effect that she is a business woman and knows the defendant very welthe defendant came to my house on the 3rd day of march 2026 that I should gave her clots for Sallah celebration for her children I gave her the following items

- Abaya two black and maroon colour for children
- Long blouse
- Two bags
- Two shoes
- Two earrings and necklace
- And finally collect the cash of two thousand naira making the total sum of one hundred and sixty-nine thousand naira



On the agreement that she will pay in three instalment, march fifty thousand naira, April fifty thousand naira then may she will pay the sum of sixty-nine thousand naira.

Later I was told she travelled to kano state she requested for my account number on the ground that she will send the money but still she didn't pay a kobo out of the money. That is all.

S A that is the case of the claimant

COURT – CW1 is hereby stood down for cross examination I order that hearing notice should be served on the defendant.

On the 15th day of September when the matter came up for cross examination of cw1 the defendant who was served against today date was absent, no reason whatsoever for her absent.

Learned counsel to the claimant humbly apply that her right be closed same was granted as prayed cw1 discharged

COURT case was adjourned for defence I order that hearing notice should be served on the defendant.

On the 21st day of September when the matter was slated for defence the defendant despite being served was absent and unrepresented, no reason for her absent learned counsel to the defendant applied that the right of the defendant for defence should be closed same was granted as prayed.

The matter was set down for judgement I ordered that hearing notice should be served on the defendant.

COURT DECISIONS

I have carefully considered the testimony of the witness. The claimant must discharge the burden placed on him or her by law to establish the case he wants the court to believe on the preponderance of evidence.

A claimant should state his or her case with sufficient facts as to entitle him or her to a remedy known in law against the defendant THIS COURT REFER ITSELF TO THE CASE OF

- ALIYU BELLO AND 13 ORS VS A G OF OYO STATE (1986) NWLR PART 45 PAGE 828 AT 830
- COL HALILU AKILU VS CHIEF GANI FAWEHINMI (1989) 2 NWLR PART 102 PAGE 122 AT PAGE 169 PARAS B-E.

It is also the law that once a party assert, he or she must prove the assertion this court refer itself to section 131(1) and 2 EVIDENCE ACT 2011 and the case of ELEGUSHI VS OSENI (2005) 14 NWLR PT 945 348.

In determine the right of the parties this court formulate lone issue for determination thus,

- Whether the claimant has proved her case upon preponderance of evidence
- Whether or not the defendant is liable to the claim of the claimant.

The defendant in this suit failed / refused to show up to either cross examine the claimant even when the matter was adjourned for that purpose.

The defendant also failed to appear to open her defence or fill form SCA

The law is that where a party fails to call evidence in rebuttal of evidence presented by an adverse party it would be deemed admitted. The burden is lighter on a claimant where the defendant fails to present any evidence to contradict the claimants case THIS COURT REFER ITSELF TO THE CASE OF ANSA AND ORS VS ADDAX PETROLUUM DEVELOPMENT NIG LTD (2013) LPELR 21128 (CA) where garba JCA held as follows.

The law is now common that where in a civil case which is proved on the preponderance of evidence, one party neglects omits fails or choose not to call evidence in order to meet the evidence adduced by the other party there would be nothing for the trial court to put on that partys side of the imaginary scale of justice.in such a situation the evidence adduced by one side will easily preponderate to the side of the scale no matter how be it minimal or minimum.

In the case of BANJOKO AND ORS VS OGUNLAJA AND ANOR (2013) LPELR 20373 (CA) where the apex court held that where no evidence is led in support of a pleading the presumption is that the pleadings is abandoned see the case of IFETA VS SPDC (2006) LPELR – 1436 (SC) (2006) 8 NWLR PT 983 585.

Now fair hearing is about opportunity to be heard see the case of ADEYINKA AJAYI VS KAYODE IDOWU AND ORS (2010) LPELR – 3673 (CA) Where a party ignores an opportunity given to it by the court to present its side of the dispute it cannot be heard to complain later that he or she was denied fair hearing.

This is the situation with the defendant in this case this court cannot compel a party to defend an action.it would however be bound by the court's decision after a consideration of the merits of this case and I SO HOLD.

It is also a cardinal principle of law that a party must rely on the strength of his case and not the weakness of his opponent see the case of ITUAMA VS AKPE-IME (2000) 7 S C PT 11 24 the claimant must succeed on the strength of her own case.

From exhibit v v1 and A it shows clearly that the claimant has entered into a business transaction with the defendant, civil case is decided on the balance of probabilities. A party who proves his or her case will obtain judgement based on such preponderance of evidence and balance of probability in his or her favour see the case of ELEBUTE VS ODEKILEKUN (1969) 1 ALL NWLR 449.

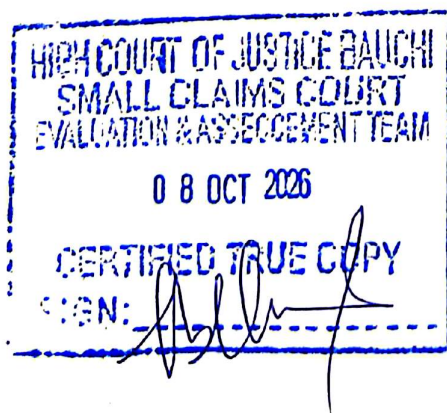
I also find out that the claimant testimony is uncontradicted, unchallenged, credible and believable, this court can therefore place reliance on this testimony as uncontroverted evidence is deemed admitted see the case of ADISA VS ADISA AND ORS (2015) LPELR – 41660 (CA).

In view of the requirement of the case of this nature to be proven by minimal evidence as held in the case of TANKO VS NONGHA (2005) LPELR 11405 (CA) I find on the balance of probabilities that the claimant has proved her entitlement to all her reliefs sought and I hereby ordered as follows,

- The defendant is ordered to pay the sum of one hundred and fifty-nine thousand being the amount of the property she collected for her children.
- The defendant is ordered to pay the sum of thirty thousand naira as cost of action

APPEAL – there is a right of appeal to the high court of justice Bauchi within 14 days from today

THIS CASE IS DECIDED TODAY BEING THE 12 DAY OF OCTOBER 2026



ZAINAB M SHUAIBU (MRS)
CHIEF MAGISTRATE 11

